

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

SIENNA DENNIS,	)	
	)	
Plaintiff,	)	
	)	No: 3:07-0127
v.	)	Judge Trauger/Bryant
	)	
WARDEN JEWEL STEEL, et al.,	)	
	)	
Defendants.	)	

**TO: The Honorable Aleta A. Trauger**

**REPORT AND RECOMMENDATION**

The Court previously has dismissed the complaint against defendants Steel, McClesky and Henry (Docket Entry No. 34).

It appears from the record that plaintiff has not obtained service of process on the remaining defendant, Officer Eagen. On September 25, 2008, the undersigned Magistrate Judge entered an order granting the plaintiff an additional extension of time within which to obtain service of process on defendant Eagen (Docket Entry No. 35). A new service packet was sent by the Clerk to the plaintiff, and the plaintiff completed this service packet and returned it to the Clerk as directed. A new summons was issued to defendant Eagen (Jim or James), addressed to the Charles Bass Correctional Complex in Nashville (Docket Entry No. 37). However, this attempted service on defendant Eagen also was unsuccessful, inasmuch as the accompanying USM-285 process return form was marked "Certified card was sent out by mail on 10/22/2008. Certified card was returned stating no such person at this facility on 10/30/2008." (Docket Entry No. 38)

This complaint was filed on January 30, 2007 (Docket Entry No. 1). Despite multiple attempts, plaintiff has failed to obtain service of process on defendant Eagen. Pursuant to Rule 4(m), Federal Rules of Civil Procedure, the undersigned Magistrate Judge finds that this case should be dismissed without prejudice for failure to obtain service of process on the only remaining defendant.

**RECOMMENDATION**

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that this complaint be **DISMISSED** without prejudice for failure to obtain service of process on defendant Eagen.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

**ENTERED** this 9<sup>th</sup> day of December 2008.

s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge